

City of Detroit

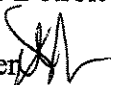
CITY COUNCIL

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TO: The Honorable Detroit City Council

FROM: David Whitaker 
Research and Analysis Division Staff

DATE: April 22, 2009

RE: **WHETHER THE 4 TO 3 VOTE ON MARCH 30, 2009 TO ADOPT A RESOLUTION TO DISSOLVE THE CITY COUNCIL STANDING COMMITTEE STRUCTURE WAS SUFFICIENT.**

Council President Monica Conyers and President Pro Tem JoAnn Watson have asked the Research and Analysis Division (RAD) to address the question whether the March 30, 2009 four (4) to three (3) vote on the resolution to dissolve the City Council standing committee structure was sufficient to accomplish its stated purpose.

1. Section 4-108 of the 1997 Charter of the City of Detroit provides that,

Except as otherwise provided by this Charter, no action of the city council shall be effective unless adopted by **at least** a majority of city council members present.

The plain meaning of the provision is that, assuming a quorum is present, a simple majority vote is the minimum requirement for taking action -- unless the Charter provides for a ~~lesser~~ number of votes. While City Council's rules must be in compliance with the minimum standards set forth in the Charter, they can be **more stringent** than the Charter in order to effectuate certain actions and, thus, require a two-thirds vote.

2. Charter section 4-105 requires that,

The city council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings in the English language. The journal shall be a public record.

City Council adopted the rules under which it currently operates, by a unanimous vote of nine to zero¹, on February 28, 2007, effective September 1, 2007. Those rules specifically address revision of the rules:

25.2 Revision of Rules: These Rules shall be reviewed periodically and may be amended by a vote of the majority of Council Members seated.

At the present time, eight Council Members are seated. Therefore, a minimum of five votes is required to **revise** the rules.

The March 30, 2009 resolution to dissolve the committee structure is akin to a motion to rescind. If the Council did **not** have a specific rule relative to revision of its rules, Robert's Rules of Order provides that to rescind rules of order by a simple majority vote, a body must provide notice at the previous meeting, stating the complete substance of the proposed change. Otherwise a two-thirds vote is required. In this instance, Council does in fact have a specific rule that addresses revision.

3. The first "resolve" of the March 30, 2009 resolution states that "the committee structure be dissolved until a better system can be established". Charter section 4-106 mandates:

The city council **shall** provide for a standing committee structure by its rules which committees may include, but not be limited to the following areas . . . (emphasis added)

Therefore, the resolution is contrary to the requirements of the Charter. While the Charter Revision Commission's Commentary states the "[t]his section is new and authorizes the city council to adopt a committee structure to conduct business. . . ." the plain language of the Charter is controlling and mandates the adoption of a committee structure.²

If council is interested in a standing committee structure with all Council Members serving on each committee, the working group prepared a model for the Rules Committee that could be considered as a starting point for discussion, if your Honorable Body wishes that these draft rules be re-circulated, please advise.

¹ Pursuant to the Charter, the Council rules could have been adopted by a simple majority of the Body. However once adopted, the Council is bound by the specific rule addressing revision. If there were no rule addressing revision or amendment, the general rule requiring a simple majority would suffice.

² Rules of statutory construction require that courts look to the plain language of a statute and only go beyond the statutory language if it is ambiguous. *Nawrocki v Macomb Co Rd Comm*, 463 Mich 143, 159 (2000); *Sun Valley Food v Ward*, 460 Mich 230, 236 (1999).